



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 16 2018

REPLY TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Rutkowski
Deputy Director of Public Works
City of Naperville, Department of Public Works
3816 Plainfield/Naperville Rd.
Naperville, Illinois 60564

Re: Finding of Violation
City of Naperville, Department of Public Works
Naperville, Illinois

Dear Mr. Rutkowski:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to the City of Naperville, Department of Public Works (you) under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you are violating 40 C.F.R. Part 60, Subpart AAAA, and Title V of the Clean Air Act, 42 U.S.C. §§ 7661 – 7661f, at your Plainfield/Naperville Road, Naperville, Illinois facility.

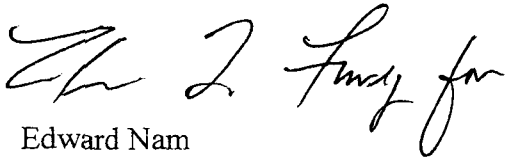
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

To request a conference, you should contact Vicky Mei or Scott Connolly, who are the EPA technical contacts in this matter. Vicky and Scott can be reached at (312) 353-2054 and (312) 886-1493, respectively. The EPA legal contact is Christopher Grubb, and he can be reached at (312) 886-7187. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Nam", written in a cursive style.

Edward Nam
Director
Air and Radiation Division

Enclosures

cc: Julie Armitage, Illinois Environmental Protection Agency
Michael DiSanto, City Attorney, City of Naperville

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF

City of Naperville, Department of Public
Works
Naperville, Illinois

Proceedings Pursuant to
Section 113(a) of the
Clean Air Act, 42 U.S.C.
§ 7413(a)

FINDING OF VIOLATION

EPA-5-18-IL-07

FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Finding of Violation under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). EPA finds that the City of Naperville, Department of Public Works is violating 40 C.F.R. Part 60, Subpart AAAA, and Title V of the Clean Air Act, 42 U.S.C. §§ 7661 – 7661f, as follows:

Statutory and Regulatory Background

New Source Performance Standards

1. Section 111(b) of the Clean Air Act (CAA), 42 U.S.C. § 7411, requires EPA to publish a list of categories of stationary sources and, within a year after the inclusion of a category of stationary sources in the list, to publish proposed regulations establishing federal standards of performance for new sources within the source category. These emission standards are known as the New Source Performance Standards (NSPS). EPA codified these standards at 40 C.F.R. Part 60.
2. Section 129(a)(1)(C) of the CAA, 42 U.S.C. § 7429(a)(1)(C), requires EPA to establish NSPS under CAA Sections 111 and 129, 42 U.S.C. §§ 7411 and 7429, for solid waste incineration units with capacity equal to or less than 250 tons per day combusting municipal waste.
3. On December 6, 2000, EPA promulgated the NSPS for New Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001 at 40 C.F.R. Part 60, Subpart AAAA (Subpart AAAA). 65 Fed. Reg. 76350.
4. Subpart AAAA applies to new municipal waste combustion units that have the capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste or refuse-derived fuel. 40 C.F.R. § 60.1010.

5. Subpart AAAA defines a municipal waste combustion unit as any setting or equipment that combusts solid, liquid, or gasified municipal solid waste, including air curtain incinerators. 40 C.F.R. § 60.1465.
6. Subpart AAAA defines municipal solid waste to include household yard waste. 40 C.F.R. § 60.1465.
7. Subpart AAAA defines an air curtain incinerator as an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of that type can be constructed above or below ground and with or without refractory walls and floor. 40 C.F.R. § 60.1465.
8. Air curtain incinerators that combust 100 percent yard waste must meet only the requirements of Subpart AAAA found at 40 C.F.R. §§ 60.1435 through § 60.1455. 40 C.F.R. § 60.1020(k).
9. Subpart AAAA defines yard waste as grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. 40 C.F.R. § 60.1465.
10. Under 40 C.F.R. § 60.1445(a)(1), within 60 days after reaching the maximum load level at which the air curtain incinerator will operate, but no later than 180 days after initial startup, an air curtain incinerator that combusts 100 percent yard waste must comply with a 10 percent opacity limit (6-minute average).
11. Under 40 C.F.R. § 60.1445(a)(2), within 60 days after reaching the maximum load level at which the air curtain incinerator will operate, but no later than 180 days after initial startup, an air curtain incinerator that combusts 100 percent yard waste must comply with a 35 percent opacity limit during start up, which is the first 30 minutes of operation.
12. Under 40 C.F.R. § 60.1450(a), the owner and operator of an air curtain incinerator that burns 100 percent yard waste must use EPA Reference Method 9 to determine compliance with the opacity limit.
13. Under 40 C.F.R. § 60.1450(b), the owner and operator of an air curtain incinerator that burns 100 percent yard waste must conduct an initial test for opacity as specified in 40 C.F.R. § 60.8.
14. Under 40 C.F.R. § 60.1450(c), the owner and operator of an air curtain incinerator that burns 100 percent yard waste must conduct annual opacity tests, no more than 13 calendar months following the date of the previous test.
15. Under 40 C.F.R. § 60.1455(a) and (e), the owner and operator of an air curtain incinerator that burns 100 percent yard waste must submit: (1) a notice of construction that includes the intent to construct the air curtain incinerator, the planned initial startup date, the types of fuels planned to be combusted in the air curtain incinerator, and the capacity of the

incinerator; and, (2) the results of each 6-minute average opacity test by February 1 of the year following the year of the opacity emission test.

16. Under 40 C.F.R. § 60.1455(b) and (c), records of all opacity tests must be kept onsite for at least 5 years in either paper copy or electronic format unless the Administrator approves another format.

Title V Applicability

17. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides, in pertinent part, that it is unlawful for any person to operate any source, including an area source, that is subject to standards or regulations under CAA Section 111, 42 U.S.C. § 7411, without an operating permit under CAA Subchapter V (Title V Permit).
18. Subpart AAAA is a regulation that contains standards that EPA promulgated under CAA Sections 111 and 129, 42 U.S.C. §§ 7411 and 7429.
19. An owner or operator of a new municipal solid waste combustion unit, including an air curtain incinerator, that is subject to Subpart AAAA, is required to obtain a Title V Permit.
20. EPA has approved Illinois Environmental Protection Agency (Illinois EPA) to issue CAA Title V permits in the State of Illinois. 66 Fed. Reg. 62949 (Dec. 4, 2001).

Relevant Factual Background

21. The City of Naperville, Department of Public Works (City of Naperville) owns and operates an air curtain incinerator at 3816 Plainfield/Naperville Rd., Naperville, Illinois.
22. EPA conducted a Clean Air Act Inspection on December 1, 2017 in response to citizen complaints involving observations of smoke and fumes originating from the City of Naperville's air curtain incinerator.
23. The City of Naperville began operating the air curtain incinerator in 2016 to burn logs, leaves, brush and other residential yard waste.
24. The City of Naperville's air curtain incinerator is an Air Burner Fire Box Model No. S-327.
25. According to manufacturer specifications, the Air Burner Fire Box Model No. S-327 air curtain incinerator has a maximum load level of 144-240 tons per day, and therefore has the capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste or refuse-derived fuel.
26. The City of Naperville applied for and obtained Open Burning Permits from Illinois EPA in 2016 and 2017 related to the operation of its air curtain incinerator. However, the Illinois EPA Open Burning Permit does not incorporate the Subpart AAAA requirements, and it is not a Title V permit.

Findings and Violations

27. The City of Naperville's air curtain incinerator is a new municipal waste combustion unit that has the capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste or refuse-derived fuel, and is therefore subject to Subpart AAAA.
28. The City of Naperville's air curtain incinerator combusts 100 percent yard waste as defined in 40 C.F.R. § 60.1440.
29. Because the City of Naperville's air curtain incinerator combusts 100 percent yard waste, it must meet the requirements under "Air Curtain Incinerators That Burn 100 Percent Yard Waste" of Subpart AAAA, 40 C.F.R. §§ 60.1435 – 60.1455.
30. The City of Naperville failed to submit a notice of construction that includes the intent to construct the air curtain incinerator, the planned initial startup date, the types of fuels, and the capacity of the incinerator, in violation of 40 C.F.R. § 60.1455(a).
31. The City of Naperville failed to conduct an initial test for opacity within 60 days after initial startup and annual tests no more than 13 calendar months following the date of the previous test, in violation of 40 C.F.R. §§ 60.1450(b) and (c).
32. The City of Naperville unlawfully operated the air curtain incinerator without a Title V permit, in violation of CAA § 502(a), 42 U.S.C. § 7661a(a).

Environmental Impact of Violations

33. These violations have caused or can cause excess emissions of particulate matter and carbon monoxide (CO).
34. Particulate matter, especially fine particulates, contains microscopic solids or liquid droplets, which can get deep into the lungs and cause serious health problems. Particulate matter exposure contributes to:
 - irritation of the airways, coughing, and difficulty breathing;
 - decreased lung function;
 - aggravated asthma;
 - chronic bronchitis;
 - irregular heartbeat;
 - nonfatal heart attacks; and
 - premature death in people with heart or lung disease.

35. CO can cause harmful health effects by reducing oxygen delivery to the body's tissues, including the heart and brain. At extremely high levels, CO can cause death.

March 16, 2018
Date

Edward Nam

Edward Nam
Director

Air and Radiation Division

CERTIFICATE OF MAILING

I certify that I sent a Finding of Violation, No. EPA-5-18-IL-07, by Certified Mail,

Return Receipt Requested, to:

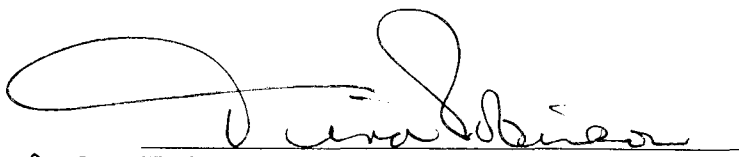
John Rutkowski,
Deputy Director of Public Works
City of Naperville, Department of Public Works
3816 Plainfield/Naperville Rd.
Naperville, Illinois 60564

I also certify that I sent copies of the Finding of Violation by email to:

Julie Armitage
Chief, Bureau of Air
Illinois Environmental Protection Agency
Julie.Armitage@Illinois.gov

Michael DiSanto,
City Attorney
City of Naperville
disantom@naperville.il.us

On the 16th day of March 2018.


Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 70170660000036618274